

the particular disclosure. Where inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 - § 806.05(i).

It is not possible to define a generic claim with that precision existing in the case of a geometrical term (MPEP 806.04(d)). In general, a generic claim should include no material element additional to those recited in the species claims, and must comprehend within its confines the organization covered in each of the species. For the purpose of obtaining claims to more than one species in the same case, the generic claim cannot include limitations not present in each of the added species claims. Otherwise stated, the claims to the species which can be included in a case in addition to a single species must contain all the limitations of the generic claim.

Once a claim that is determined to be generic is allowed, all of the claims drawn to species in addition to the elected species which include all the limitations of the generic claim will ordinarily be obviously allowable in view of the allowance of the generic claim, since the additional species will depend thereon or otherwise include all of the limitations thereof.

A key determination in whether a generic claim is appropriate depends on the disclosure of a commonality of operation, function or effect. As stated in the present application, there is a strong commonality of function and effect in the two stresscopin peptides.

Further, Applicants respectfully submit that the polypeptide and methods for the use thereof are properly rejoined. Although a product and method of use may be restricted, it is also common to examine a method of use in combination with the product used in the method. In particular, as presently written, Claim 5 requires the use of the peptide of Claim 3, and therefore cannot be practiced with another agent.

In view of the above remarks, Applicants respectfully request rejoinder of the claims of Group I and Group III, and request examination of the peptides of SEQ ID NO:2 and 3; and of 5 and 6.

CONCLUSION

Applicants submit that all of the claims are now in condition for allowance, which action is requested. If the Examiner finds that a Telephone Conference would expedite the prosecution of this application, she is invited to telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any other fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number STAN-210.

Respectfully submitted,

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